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The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala: renewal of mandate

Report of the Secretary-General*

Summary

The present report summarizes developments in 2002 related to the implementation of Guatemala's peace agreements. In the light of the number of provisions remaining to be implemented and the deterioration in the situation in the country, the Secretary-General requests a renewal of the mandate of the United Nations Verification Mission in Guatemala, from 1 January to 31 December 2003.

* On 24 December 2001, the General Assembly extended the mandate of MINUGUA from 1 January to 31 December 2002. Submission of the report is timed to coincide with conclusion of that mandate, on 31 December.



I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 56/223 of 24 December 2001, by which the Assembly authorized the renewal of the mandate of the United Nations Verification Mission in Guatemala (MINUGUA). The mandate of MINUGUA derives from Assembly resolution 51/198 B of 27 March 1997. Throughout 2002, MINUGUA has continued to verify compliance with the peace agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca. By resolution 56/223, the Assembly renewed the mandate of MINUGUA from 1 January to 31 December 2002. At that time I was requested to submit an updated report to the Assembly at its fifty-seventh session, together with recommendations on the work of the Organization in Guatemala after 31 December 2002.

2. In my report dated 21 September 2001 (A/56/391), I recommended to the Assembly renewal of the mandate from 1 January to 31 December 2002. On that occasion, in keeping with the practice since December 2000, I presented plans for the incremental downscaling of Mission operations, leading to closure in December 2003. I also called for the greater involvement of the United Nations system in issues and projects on the priority peace agenda, and for strengthening the capacities of national institutions, enabling them to assume key functions after the Mission's closure.

3. The seventh report on the status of implementation of the peace agreements was issued in document A/56/1003, dated 10 July 2002. Subsequently, I transmitted to the Assembly the Mission's thirteenth report on compliance with the Comprehensive Agreement on Human Rights in document A/57/336, dated 14 August 2002. The present report provides a schematic overview of developments related to the peace agenda during 2002. It also presents a plan for restructuring the Mission in 2003 with an eye towards the phasing out of operations and the conclusion of the Mission's mandate. The agreements were originally slated for full implementation in December 2000. Yet, in the light of delays, the Commission to Follow up the Implementation of the Peace Agreements drew up a new timetable which called for completion in 2004.

II. Political context and implementation of the peace agreements

4. After a year of lagging peace implementation and political polarization in Guatemala, optimism about the peace process was renewed in February 2002 as a result of the Consultative Group meeting for Guatemala, convened in Washington, D.C., by the Government and the Inter-American Development Bank, and attended by representatives of the Government, civil society, the donor community and the United Nations system. Discussions were held in a constructive climate of mutual respect, suggesting that Guatemalans were united behind the peace agenda and prepared to reduce the levels of confrontation. Bilateral and multilateral donors emphasized that their continuing support for Guatemala was contingent upon the progress made on the nine points targeted for priority action by the Government, including accelerated implementation of the peace agreements and action to combat impunity, improve public security and guarantee respect for human rights.

5. Significant legislative advances have occurred since the meeting of the Consultative Group. In April 2002, for example, the Guatemalan Congress approved the Law on Urban and Rural Development Councils, the General Law on Decentralization and reforms to the Municipal Code. These pieces of legislation are important steps towards compliance with the commitments on decentralization and social participation contained in the peace agreements. In September, the Congress passed a law outlawing discrimination on the basis of gender, ethnicity and other criteria, including more severe penalties when the victim is a member of Guatemala's indigenous population.

6. The Government presented detailed plans for carrying out its pledge to the Consultative Group and has given periodic progress reports to the international community and the Commission to Follow up the Implementation of the Peace Agreements. Government officials have made assurances that these plans do not substitute for the State's broader commitment to comply with the peace accords as a whole. However, civil society organizations have complained that the Government has prioritized its commitments to international financial institutions at the expense of the goals laid out in the peace agreements.

7. Despite these advances, implementation of the peace agreements remains far behind schedule in many areas (see A/56/1003 and A/57/336). Social and educational budgets remain under-funded, while the military absorbs excessive resources, occupies roles that should be assigned to civilians and is slow to change its counter-insurgency doctrine and deployment. Although progress has been made in building a civilian protection force for the President of the Republic, the Government has not followed through on its promise to dismantle the Presidential General Staff, a presidential security unit linked to grave human rights violations during the conflict.

8. Discrimination remains widespread, with scant advancement towards the far-reaching changes envisioned in the Agreement on the Identity and Rights of Indigenous Peoples. The National Civilian Police, a cornerstone of efforts to strengthen civilian authority, began promisingly but needs greater resources to confront a crisis of public security. Lynchings are again on the rise, underscoring the weakness of the institutions responsible for justice and public security, as well as a persistent culture of violence left over from the armed conflict. Rural social conflicts persist and are magnified owing to a lack of progress on the land question and other aspects of the socio-economic accord. Efforts to build a tax base capable of sustaining a long-term modernization programme have fallen short of the goals established by the peace agreements.

9. As the Mission plans its departure, new dynamics are causing added concern. There was an upsurge in attacks and threats against human rights workers in the first months of the year, possibly by clandestine groups, including former military officers. These incidents have not been followed by serious investigations. Also of great concern is the recent reorganization, as a pressure group, of former members of paramilitary militias found responsible for massive human rights violations during the armed conflict. In considering the demands of these groups for aid, the Government should consider responses that serve to promote healing and reconciliation, in keeping with the spirit of the peace agreements.

10. Elections scheduled for December 2003 add an element of uncertainty and potential conflict. The electoral process could divert attention from the peace agenda

or lead to policies contrary to the peace agreements. Under current planning, MINUGUA will be departing Guatemala just as the new authorities take office, and before the new Government has been able to demonstrate its commitment to the peace accords. Some governmental officials, civil society organizations and members of the international community have expressed concern that voids will be created, in particular in the areas of human rights, indigenous rights, demilitarization and the strengthening of civil society.

11. However, there are encouraging signs as well. Civil society organizations are participating actively and at many levels to ensure that public policies are formulated and carried out in accordance with the peace agreements. Donor Governments appear committed to funding the peace process, while conditioning their assistance on faster implementation. The new leaders of the Office of the Human Rights Ombudsman and the Public Ministry have pledged to improve their institutions, both of which are fundamental to protecting human rights and making justice accessible to all Guatemalans.

12. In October 2002, verdicts were handed down in two landmark human rights cases. In one case, a former high-ranking officer in the Guatemalan army was convicted of ordering the 1990 murder of anthropologist Myrna Mack. Just days later, an appeals court overturned the conviction of four men in connection with the 1998 killing of Bishop Juan Gerardi, citing procedural errors that would require a retrial. Those who have sought to establish the truth and accountability in these crimes are to be commended. That these trials were held testifies to progress, albeit tentative, in establishing the rule of law in Guatemala, and augurs well for a future in which the courts can ensure justice for all.

13. Recent presidential statements have also provided encouragement. Speaking to the General Assembly in September 2002, President Portillo reaffirmed his Government's commitment to the peace process. He also requested an extension of the mandate of MINUGUA into 2004. Subsequently, during a speech marking Guatemala's Independence Day, the President made additional welcome commitments to carrying out aspects of the peace agreements, pledging to strengthen the Land Fund, continue reductions in the size of the army, increase efforts to stop attacks against human rights workers and implement a national reparations programme for war victims, one of the many unfulfilled recommendations of the Historical Clarification Commission. Negotiations between the Government and victims' organizations have held out hope that such a reparations plan can be achieved.

14. Another welcome sign is the convening of thematic round-table meetings on strategic national issues under the joint auspices of the United Nations Development Programme and the Organization of American States. These meetings — on agrarian issues and rural development, indigenous peoples, human rights, justice and public security, the modernization of the army and promotion of a culture of peace and reconciliation — were organized as a result of the call, at the Consultative Group meeting in Washington, D.C., for continued dialogue between the Government of Guatemala, civil society and the private sector. They provide Guatemala with a new opportunity to build consensus around the peace agenda and to push forward the process of national reconciliation.

III. Proposed structure and staffing of the Mission in 2003

15. During 2002, MINUGUA has continued to carry out its mandate to verify compliance with the peace agreements, provide technical assistance, offer good offices and inform the public about its activities and results of the verification. The Mission has issued special reports to the Guatemalan public on the state of indigenous rights, education reform, lynchings and the commitment regarding the size and role of the army. MINUGUA has participated actively in commissions created under the peace agreements and has acted as a central reference point on the agreements for the international community. In the field, MINUGUA has continued to verify, to educate the public about the peace agreements, to promote grass-roots participation in local governance bodies for development planning and to exercise good offices to help defuse social conflicts, which often stem from a lack of compliance with the agreements.

16. MINUGUA has also embarked on a transition programme, the goal of which is to fortify the capacity of Guatemalan state and civil society institutions, as well as the international community, to carry forward the peace agenda after the Mission has withdrawn. Special attention has been paid to the Office of the Human Rights Ombudsman, which has a mandate to verify human rights. While intensifying transition activities, MINUGUA will continue to verify the peace agreements and use its good offices and public information functions to press for fuller implementation during the time remaining in the mandate.

17. The Mission will have to carry out its work within the framework of the gradual budget reductions initiated in previous years. Therefore, I am proposing a further scaling down of MINUGUA in 2003. The savings come largely from reduced administrative costs and reductions in international Professional staff at the Guatemala City headquarters. Verification will be increasingly targeted at the commitments in the peace agreements that are considered fundamental to ensuring the durability of the process. A special effort will be devoted to documenting the nearly decade-long experience of the Mission and analysing the lessons learned.

18. The MINUGUA field offices will retain their current strength of operation. This will allow a decreased, but focused, verification capacity while increasing transition activities aimed at strengthening local actors, including indigenous organizations, the local offices of the Human Rights Ombudsman, the departmental peace round-table meetings and development councils that provide greater grass-roots participation in development planning. The field presence, a key for defusing conflicts and a deterrent against human rights violations, will be especially important during the 2003 election campaign. In anticipation of the changes, the Guatemala City regional office has already been moved from the headquarters to a new location, thus facilitating access by the population and allowing more fluid contact with transition partners and civil society.

19. At MINUGUA headquarters, the office of the Special Representative of the Secretary-General has been streamlined with the incorporation of the functions of the existing Follow-up Unit into an Office of the Political Adviser, which is responsible for political analysis and reporting to United Nations Headquarters, providing advice to the Special Representative on overall Mission strategies and policies and taking a lead role in drafting Mission reports. The Office of the Spokesperson will expand its public information campaigns aimed at solidifying

public support for the peace agreements, while also increasing activities to explain the transition process.

20. Early in 2002, the Transition Unit was formed at MINUGUA headquarters to provide strategic advice and technical support to the Special Representative on the transition process, to develop the Mission's work plan and benchmarks for transition and to monitor transition progress. The Unit will continue to identify transition partners among relevant state entities, peace institutions and civil society organizations and will propose policies for transferring to them Mission information and know-how. Special attention will be paid to coordinating institutional strengthening of the Office of the Human Rights Ombudsman, which is the key state institution for the defence of human rights and a strategic actor in the transition. To that end, a memorandum of understanding was signed in October, providing a framework for future cooperation. The Unit will also work closely with the Resident Coordinator's office, relevant agencies and programmes of the United Nations system and bilateral cooperation agencies in seeking adequate political and financial support for national transition partners.

21. Three remaining Trust Fund projects — support for legislative initiatives on the peace agenda (PROLEY), public information on the peace process and strengthening the departmental peace round-table meetings — will remain important to the Mission's effectiveness.

22. MINUGUA will continue to organize its verification of the peace agreements around four main areas: human rights, indigenous rights, the strengthening of civilian power, and economic policy and rural development. The Mission will also closely monitor the Government's compliance with the promises made to the Consultative Group related to the peace agreements and human rights. In each substantive area, however, the verification will focus on strategic commitments which, if fulfilled, would help to ensure that the peace process is sustainable. In the coming year, the respective units at Mission headquarters will be slimmed down and renamed "advisories", reflecting the need to target verification in fewer areas and to allow an increased emphasis on transition activities. The four advisories, as well as the regional offices, will devote increased staff time and resources to strengthening Guatemalan transition partners, including constitutional bodies and peace institutions.

23. The Advisory on Human Rights, in coordination with the Transition Unit, will prioritize activities to build the capacity of the Human Rights Ombudsman to carry out verification. The Advisory on Indigenous Rights will continue its support for organizing efforts by indigenous groups around the peace agreements and will work closely with the Office of the Human Rights Ombudsman to strengthen its capabilities on these issues. This Advisory will closely coordinate its activities in 2003 with the Office of the United Nations High Commissioner for Human Rights. The Advisory on Strengthening Civilian Power will emphasize key reforms that will solidify the transition, including reforms to the military defence policy and doctrine called for in the peace agreements. The Advisory on Economic Policy and Rural Development, which should be able to sustain additional staff reductions before the end of 2002, will prioritize work around rural development policy and the land issue, which is a source of increasing conflict.

24. To ensure that the experience of MINUGUA is adequately documented and analysed, a new Mission History and Lessons Learned Unit will prepare an official

report on the history of MINUGUA and lessons learned. Mission documents will be organized and located in accessible national and international archives. As part of the transition process, lessons gleaned from Trust Fund projects will be channelled into planning for the international technical assistance projects that will continue after the departure of MINUGUA. By adopting a systematic approach to learning from the past, the products of this new Unit should benefit both Guatemalans and those designing future United Nations peace operations.

25. With the demobilization and disarmament process now complete and civilian staff competently managing military and police reform issues, the posts of Military Adviser and Police Adviser will no longer be necessary. One police observer will remain in each regional office to participate in the verification of human rights cases. These officers will also monitor reform efforts related to public security and the armed forces.

26. In consultation with MINUGUA and the Department of Political Affairs, the United Nations Development Programme has been tailoring its efforts to reflect peace agenda priorities, and to anticipate possible gaps created by the departure of MINUGUA. One new initiative is the establishment of a project on public security and military reform, which will get under way late in 2002. Project staff will work in close collaboration with the staff of the MINUGUA Advisory on Strengthening Civilian Power.

IV. Observations

27. Whether the reform process under way in Guatemala is sustainable in the long term will depend on the ability of Guatemalan parties to carry forward the blueprint for peace and democracy established in the agreements. Now in its eighth year in Guatemala, MINUGUA has begun to prepare for the day when its role as proponent and monitor of reforms and as human rights observer will pass to national actors. In anticipation of that day, I call on all Guatemalans to dedicate themselves to building a just and rights-respecting society capable of providing for the basic needs of all of its citizens. In particular, I would reiterate my call to the Government of Guatemala and to the Unidad Revolucionaria Nacional Guatemalteca, as signatories to the agreements, to provide the necessary leadership in respect of the peace agenda.

28. It is the responsibility of the Government of Guatemala to press ahead with the implementation of the peace agreements, even in the light of tight resources, limited time and political obstacles. The international community stands ready with support, provided that there is political will on the part of Guatemala's authorities. That will should be demonstrated through actions to fulfil outstanding commitments in the peace agreements, such as: progress against impunity, thorough investigations into attacks against human rights workers and the enactment of a programme of war reparations; adequate budgetary support for the Office of the Human Rights Ombudsman, the National Civilian Police and the Public Ministry, as well as educational and health programmes; tangible advances against racial discrimination and in ensuring access to justice and other public services by Guatemala's large indigenous population; and, finally, more determined action towards redefining the role of the armed forces in a time of peace, including the dismantling of the

Presidential General Staff. With electoral campaigns already under way, I call on all of the country's political forces to ensure a constructive and peaceful electoral process, in affirmation of Guatemala's pledge to carry forward the peace process.

29. The period ahead will also be crucial for ensuring that international organizations fully incorporate the peace agenda in their priorities. Within the United Nations system, important progress has been made in this regard in 2002 in specific thematic inter-agency working groups. The Office of the United Nations High Commissioner for Human Rights has taken significant steps towards developing an increased presence in Guatemala. The successful visit of the Special Rapporteur on Indigenous Peoples early in September was an important first step in determining the role that this mechanism can play after the Mission leaves.

30. The Mission is already fully engaged in a transition programme that will intensify in 2003. There are no guarantees, however, that the Guatemalan sectors targeted in the transition will be sufficiently strong to assume their added responsibilities by the time of the planned departure of MINUGUA. The risks of voids appearing in the coverage of key areas, such as human rights, indigenous rights and demilitarization, could become more evident should current political trends continue. In recent months I have been increasingly concerned by a deterioration in human rights compliance, by growing polarization and by the failure to allocate adequate resources to such sectors as public security, justice, education and health. Compounding an already precarious situation, efforts to tackle these shortcomings will unfold amid a change of government scheduled for January 2004.

31. In view of the remaining challenges laid out in the present report and in my previous verification report (A/56/1003), I recommend that the General Assembly approve a renewal of the mandate of MINUGUA from 1 January to 31 December 2003. To realize the work derived therefrom, I call on the Member States to allocate the necessary resources. During the mandate period, I shall continue to report to the Assembly on Guatemala's compliance with the peace agreements while carefully considering how best to accompany Guatemala in the next phase of peace-building. Given the request of the Government of Guatemala for an extension of the mandate of MINUGUA into 2004, I shall initiate consultations with interested Member States and keep the Assembly apprised of the progress of these talks.
